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'Leaky' oversight committees frustrate foreign policy efforts

This is the first of several articles on intelligence oversight.

By Bill Gertz
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In late 1981, President Reagan authorized covert assistance to the resistance forces in Nicaragua. Within months, the particulars leaked to U.S. newspapers, and a covert operation became overt.

Congressional support evaporated. The Marxist Sandinista government in Managua suddenly was awash in sentiments of solace and goodwill from America and the West.

The propaganda dividends are only just now diminishing.

The leaks surrounding the Nicaragua operation caused "serious divisiveness" between the CIA and the congressional oversight committees, disrupting a period of relative harmony that followed the anti-intelligence hysteria of the mid-1970s.

Gary Schmitt, who was minority staff director for the Senate Select Committee on Intelligence until this year, says the Nicaragua leak illustrates the difficulty of conducting covert operations without a clear national consensus of what the nation wants its foreign policy to accomplish.

In particular, Mr. Schmitt sees the Nicaragua case as one example where the congressional oversight of intelligence played a major role in influencing the conduct of foreign affairs.

In essence, "only non-controversial findings remain covert," says Mr. Schmitt in a forthcoming paper on intelligence oversight.

Once public, whether disclosed by the White House or the Congress, congressional support for covert operations inevitably unravels. Under congressional rules, congressmen cannot discuss intelligence matters and are thus left to posture against leaked operations as a means of defense.

The president's freedom to maneuver with a variety of "special activities" — beyond diplomacy but short of sending in the Marines — is thus more limited.

Covert operations that have been blown by leaks include the Nicaragua operation, support for Afghan rebels through Egypt and China after 1979, support for political parties in El Salvador, support for Cambodian rebels after 1980, support of anti-Qaddafi forces in Libya and Chad, and support for anti-Khomeini exiles.

Mr. Schmitt, a former aide to Sen. Daniel P. Moynihan, D-N.Y., says that congressional oversight has, on the whole, been "uneven," and driven by events rather than policy and partisan.

Recently, Sen. Patrick Leahy of Vermont, the Democratic vice chairman of the Senate Intelligence Committee, announced that Democrats on the panel would conduct an independent investigation of stories of a CIA counter-terrorist training program in Lebanon among five other CIA operations.

The Leahy announcement was made the day The Washington Post published a report from Lebanon linking the CIA to a "runaway mission" by a Lebanese counter-terrorist unit that had bombed a building in a Beirut suburb. (The House Intelligence Committee later absolved the CIA of any links to terrorism in Lebanon.)

A short time later, Sen. Leahy, after accusing the CIA of not fully informing Congress of its Lebanon program — his suspicions presumably encouraged by the erroneous story in The Post — backed away from what had taken on the appearance of an investigation motivated by partisan politics.

Sen. David Durenberger, R-Minn., the chairman of the Senate Intelligence Committee, says the problem of partisanship in the oversight process only occurs "when covert action becomes overt."

"Pat [Leahy] had a camera in front of him and he had to say something," Sen. Durenberger said in an interview of the vice-chairman's

idea for a Democratic investigation. "He feels strongly about counter-terrorism, so he said it, and he backed off because he was in a little bit over his head."

Mr. Schmitt notes that the anti-intelligence hysteria of the '60s was the inevitable result of a breakdown in the post-World War II foreign policy consensus — a consensus dissolved by the frustrations and disappointments of the Vietnam War and the public disgust with government institutions in the wake of Watergate.

Many analysts trace the beginning of modern intelligence oversight to late December 1974.

In a series of front page articles in that month, The New York Times reported that the CIA had engaged in a "huge" domestic intelligence program in violation of CIA regulations against conducting business inside the United States.

The articles, citing "well-placed government sources," touched off a firestorm of congressional investigations. Eight days after the first article appeared, President Gerald Ford signed into law the Hughes-Ryan Amendment, restricting the CIA from conducting any operations without presidential approval — eliminating the reliable intelligence technique of "plausible denial." The intelligence agencies could no longer conduct covert operations that, if unsuccessful, would be denied, leaving the president out of it.

In addition, the law required the CIA to report to "all appropriate committees" — eventually eight legislative bodies. The law all but eliminated covert action operations through unauthorized press disclosures.

Besides the foreign affairs, armed services and defense appropriations subcommittees of both houses, which exercised what Mr. Schmitt called "de minimus" oversight since 1947, the intelligence agencies would also report to the newly created intelligence oversight committees, headed by Rep. Otis Pike and Sen. Frank Church, respectively.

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